THE HONOURABLE SRI JUSTICE C.V. RAMULU

WRIT PETITION NO.13772 OF 1997

DATED: 10-04-2007

Between:

V. Padmanabha Reddy

.. Petitioner

and

The Executive Engineer, A.P. Housing Board, Nellore Division, Nellore and another.

.. Respondents

THE HONOURABLE SRI JUSTICE C.V. RAMULU

WRIT PETITION NO.13772 OF 1997

ORDER:

This writ petition is filed seeking a mandamus declaring the action of the respondents in withholding the salary of the petitioner and giving breaks in his service, as arbitrary, discriminatory and illegal; and consequently to direct the respondents to pay salary due to him forthwith and also grant him time scale of pay attached to the post held by him.

It is the case of the petitioner that he was appointed as Electrician in the respondent- Housing Board on daily wages, payable on monthly basis, in October 1994. He had been paid his monthly salary regularly up to March 1997. But, since April 1997, the 1st respondent stopped paying him salary. When the petitioner approached the respondents and requested them to pay his salary, they informed him that the salary cannot be paid in his name, but can be paid in fake name i.e. in the name of third person. Since the petitioner refused for the same, the respondents did not pay him salary from April 1997. The further grievance of the petitioner is that the authorities have issued orders granting regular scale of pay to the similarly situated persons applicable to the posts held by them, but the petitioner was not granted the same on par with those similarly situated persons. Aggrieved by the same, the present writ petition is filed.

A detailed counter-affidavit is filed by the respondents stating that the petitioner was engaged on contract basis and payments were

made from time to time for the work done. He was never appointed as N.M.R and was never on pay rolls. Therefore, there is no question of giving breaks in his service, as alleged by him, and the question of extending regular scale of pay also does not arise at all.

While admitting the writ petition, on 02.07.1997, an interim order was passed in W.P.M.P.No.16577 of 1997, directing the respondents not to make any break in the service of the petitioner until further orders. Thereafter, on filing a vacate stay petition, being W.V.M.P.No.2156 of 1997, the said order was modified directing to maintain status quo in respect of the petitioner's service, whether it is contractual or NMR, till further orders.

It is asserted by the learned counsel for the respondents that the petitioner was being paid through a contractor and, therefore, he refused to receive the salary and, however, during the pendency of the writ petition, the petitioner received the said amounts. Further, the learned counsel for the petitioner states that the services of the petitioner were terminated with effect from 14.04.2005 and, aggrieved by the same, the petitioner filed another writ petition which is pending before this Court.

In view of the above said subsequent events, nothing survives for adjudication in this writ petition and the writ petition has become infructuous.

Accordingly, the writ petition is dismissed as infructuous. There shall be no order as to costs.

C.V. RAMULU, J

10th April, 2007.
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